
OLR Bill Analysis

sHB 5343 (File 389, as amended by House "A")*

AN ACT CONCERNING ECONOMIC DEVELOPMENT THROUGH STREAMLINED AND IMPROVED BROWNFIELD REMEDIATION PROGRAMS

SUMMARY:

This bill exempts from the Hazardous Waste Establishment Transfer Act airport property the Department of Transportation (DOT) conveys to the Connecticut Airport Authority (CAA). PA 11-84 created CAA to develop, improve, and operate Bradley International Airport, the state's five general aviation airports, and any other general aviation airports. It also authorized DOT, which exercises most airport-related powers, duties, and functions to transfer them to CAA, but DOT continues to exercise them until the transfer. When conveying property to CAA, DOT must do so through a memorandum of understanding.

The bill requires the state to hold harmless and indemnify CAA and its directors and employees from liability related to title defects and contamination that existed on airport property before it was conveyed to CAA. It also allows CAA and its directors and employees to bring action in Superior Court to compel the state to enforce the bill's protections, which do not extend to title defects or environmental issues that arise after a property was leased, assigned, transferred, sold, or disposed of to CAA.

The bill requires the Department of Energy and Environmental Protection (DEEP) commissioner to report, by January 1, 2013, to the governor and the Commerce and Environment committees on (1) the results of his on-going review of brownfield remediation and development laws and regulations and (2) his recommendations for statutory and regulatory changes and new programs for responding to hazardous waste spills.

*House Amendment "A" exempts DOT conveyances to CAA from

the Transfer Act and adds provisions indemnifying and holding harmless CAA directors and employees.

EFFECTIVE DATE: Upon passage, except for a technical change, which takes effect January 1, 2014.

AIRPORT PROPERTY TRANSFER ACT EXEMPTIONS

The bill exempts from the Transfer Act airport-related property DOT conveys to CAA. The Transfer Act requires the parties to a real estate transaction involving contaminated property to notify the DEEP commissioner about the contamination and the party that will investigate and remediate it. The bill specifically exempts from the Transfer Act:

1. Bradley International Airport and all related improvements and facilities;
2. state-owned and -operated general aviation airports, including Danielson, Groton/New London, Hartford Brainard, Waterbury-Oxford, and Windham airports, and any other airport conveyed to CAA for it to own, operate, and manage as a general aviation airport;
3. other airports conveyed to CAA for it to own, operate, and manage; and
4. any airport site or part thereof, including restricted landing areas and air navigation facilities, conveyed to CAA.

The Bradley property includes property DOT currently owns and conveys to CAA and property it subsequently acquires, adds, extends, improves, and equips and conveys to CAA.

INDEMNITY FOR CAA DIRECTORS AND EMPLOYEES

The bill holds harmless and indemnifies CAA's directors and employees from existing title defects and pollution, contamination, and hazardous wastes, substances, and building materials arising from airport related property, facilities, and other improvements conveyed

to it. It applies to real estate that is part of Bradley International Airport, other airports, and airport sites that are leased, assigned, transferred, sold, or disposed by DOT to CAA.

The bill's protection does not extend to title defects and environmental issues that arise after these transactions occur and are unrelated to any preexisting defects for conditions.

DEEP REPORT

The bill requires the DEEP commissioner to report on the status of his ongoing review of the state's brownfield laws and regulations to the governor and Commerce and Environment committees. The report is due January 1, 2013. The report must include recommendations for statutory and regulatory changes and new hazardous waste clean-up programs.

The recommendations must consider DEEP's 2011 evaluation of the state's brownfield laws and programs and how the recommendations affect:

1. federally delegated programs,
2. municipalities and small businesses,
3. human health and the environment,
4. the efficacy of responding to releases, and
5. remediation and economic development.

The recommendations must also address new and expanded ways of evaluating or auditing recommended changes and new programs, including using the statutory authority of licensed environmental professionals to certify environmental clean-ups and the most effective ways to implement the recommendations.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/27/2012)

Environment Committee

Joint Favorable

Yea 24 Nay 0 (04/19/2012)